



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
NORTHEAST REGION  
One Blackburn Drive  
Gloucester, MA 01930-2298

MAR 22 2001

In Reply To:  
OEP/DEER/Gas 2  
Millennium Pipeline Company, L.P.  
Docket Nos. CP98-150 et al., and  
Columbia Gas Transmission Company,  
Docket No. CP98-151-000

Mr. Richard R. Hoffman  
Leader, Gas Group 2  
Federal Energy Regulatory Commission  
Office of Energy Projects  
Washington, D.C. 20426

Dear Mr Hoffman:

This acknowledges your request for an essential fish habitat (EFH) consultation pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) for the subject project. I have limited my comments to the Federal Energy Regulatory Commission's (FERC) EFH assessment and to the Haverstraw Bay option addressed in that document. This supercedes our fax transmission on this subject sent on March 21, 2001. This letter is identical to the fax version except that it includes procedures to respond to the conservation recommendations.

We are able to only partially review the EFH assessment since it did not address alternatives that could avoid or minimize adverse effects on EFH. Although the assessment states that alternatives were analyzed and rejected, it failed to incorporate those analyses. That information is vital to the assessment process. It would enable us to evaluate the relative impacts of alternative river crossings to determine if the least damaging practicable alternative can be identified. I offer the following comments and conservation recommendations in the interim.

Of the 59 species for which EFH has been designated in waters of the northeastern U.S., FERC's review disclosed that EFH is present in Haverstraw Bay for six of these species: red hake



(*Urophycis chuss*), winter flounder (*Pseudopleuronectes americanus*), windowpane flounder (*Scopthalmus aquosus*), bluefish (*Pomatomus saltatrix*), Atlantic butterfish (*Peprilus triacanthus*), and fluke (*Paralichthys dentatus*). We agree with FERC's determination that this is an accurate species list for EFH designated in Haverstraw Bay and the Croton River Bay area.

As described in the EFH assessment, the Haverstraw Bay option may negatively impact both managed species and EFH. The crossing areas were provided special ecological status when New York designated the area a Significant Coastal Fish and Wildlife Habitat pursuant to the Coastal Zone Management Act, and the U.S. Fish and Wildlife Service designated the area as a Significant Habitat Complex of the New York Bight Watershed. This productive estuary area is a regionally significant nursery and wintering habitat area for a number of anadromous and estuarine fish species, including the endangered shortnose sturgeon and the Atlantic sturgeon.

According to the applicant, the width of the river at Haverstraw Bay precludes directional drilling and leaves dredging as the only viable option. In its EFH assessment, FERC acknowledges that the project will cause temporary adverse impacts by using a closed bucket dredge, placing and moving anchors and barge spuds, laying pipe, and backfilling the trench. The assessment characterizes these as temporary disturbances to water quality and the riverbed. We agree with the conclusions in the assessment that sediments suspended during the trench cutting, pipe-laying, and backfilling operations have a habitat-degrading effect. However, we are concerned that those impacts will not be short-lived and limited to temporary resuspension of unconsolidated material, localized deposition, and resuspension of contaminants. Pipeline installation via dredging will affect vital ecological functions in Haverstraw Bay and will cause adverse effects on aquatic resources in areas downstream. These effects, particularly indirect and cumulative effects, should be fully discussed in FERC's assessment.

Our primary concerns with the lay barge technique are with impacts to sediments and associated species. For example, our experience with other utility crossings in the Hudson River and elsewhere indicate that crossings cause benthic disturbances that take much longer than anticipated to recover, if recovery takes place at all. This is an important consideration for EFH because the proposed dredging would constitute new work in healthy river bottom habitat. Similarly, given the normal distribution patterns of fish in the Hudson River, it is logical to assume that motile life stages will be affected during project construction. Organisms that may be smothered by the plume of material suspended during dredging should be considered in the EFH assessment. Modeling to estimate the areal extent of EFH impacts did not include important technical considerations, such

as resuspension, that influence plume behavior and impacts. Since the surface plume is not representative of the near-bottom situation (and the "environmental" bucket produces a denser resuspension cloud near the bottom), we suspect that the model underestimates the actual ecological impacts from increased turbidity and deposition near the dredge area. Models also should include damage to shallow waters from barges grounding at lower tidal stands, and similar effects. The EFH assessment proposes to use silt curtains to mitigate resuspension impacts. We have reservations concerning this technique, given that sediments will tend to concentrate within the silt curtains and exacerbate near-bottom impacts.

The Croton River and Bay crossing area portion of the project may offer some alternatives to dredging, with fewer habitat concerns to EFH. Horizontal directional drilling from upland points of entry and exit is preferred in sensitive aquatic habitats because disturbances to the water column, unconsolidated bottom material, and benthic assemblage generally can be avoided. The major exception to this preference is when local geology is unsuitable for containing drill muds and cuttings during the boring, or if the length of the drilling reduces the likelihood for success. A detailed survey should certify that local geology is not susceptible to fractures or instabilities that could complicate directional drilling. If drilling proves problematic, an alternative corridor through this project reach should be investigated.

Finally, I would like to address the alternative construction window proposed in the EFH assessment. Under the proposal, dredging would be undertaken from August 1 to October 31. As we have indicated in previous coordination, there is no good time to conduct extensive dredging in Haverstraw Bay since the proposed alignment would pass through habitats used by every species listed on Table 3-2 of the EFH assessment. A construction window that would permit work in August has the potential to impact life stage and habitat needs of many species, including special concern species such as the endangered shortnose sturgeon and the Atlantic sturgeon. In balancing the needs of our various species of concern, we conclude that an acceptable window for dredging would be from September 1 to November 15 at Haverstraw Bay.

Pursuant to Section 305(b)(4)(A) of the Magnuson-Stevens Act, I recommend, based upon the limited information provided in the EFH assessment, that FERC fully investigate alternatives to the Haverstraw Bay alignment that would minimize adverse effects on EFH and other resources. I also recommend that FERC conduct a more rigorous analysis to compare the effects of different Hudson River crossing alignments on EFH. The Magnuson-Stevens Act requires that FERC provide NMFS with a written response to these conservation recommendations, including measures adopted by the action agency to avoid, minimize, mitigate, or offset adverse effects.

Since the SDEIS was not available for consideration in the development of the above conservation recommendations, NMFS or FERC may reinitiate consultation pursuant to 600.920(k). Such consultation may be reinitiated if the SDEIS provides new or additional information that affects the basis for the above conservation recommendations. For example, if the analysis shows that the Haverstraw Bay alignment is the only practicable alternative, consultation can be reinitiated and the EFH conservation recommendations can be revised, as appropriate.

I look forward to your response and to our continued coordination with FERC on this and other projects. I am willing to meet with you to discuss our concerns. If you have any questions about this matter or about EFH in general, please call Ms. Diane Rusanowsky of my staff at 203-579-7071.

Sincerely,

  
for Patricia A. Kurkul  
Regional Administrator

cc: F/NER4 - Sandy Hook, Milford  
Office of Habitat Conservation  
USACE - Buffalo, NY  
NYSDOS  
NYSDEC - Albany